

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PHILIP R. JACOBY, JR., *et al.*,

Defendants.

Case No. 17-cv-03230-CCB

**DEFENDANT LODE B. DEBRABANDERE’S RESPONSE TO PLAINTIFF’S NOTICE
THAT SUMMARY JUDGMENT BRIEFING IS COMPLETE AND
REITERATION OF HIS REQUEST FOR A HEARING**

Plaintiff SEC filed a Notice stating that “briefing is complete” and that its Motion for Partial Summary Judgment against Defendant Debrabandere (“Motion”) is “ready for decision.” Dkt. No. 187.

As the Court is aware, however, Dr. Debrabandere has requested a hearing on the Motion (i.e., oral argument), Opp. (Dkt. No. 160), which the SEC did not oppose, and he hereby respectfully reiterates that request (unless the Court is able to deny the Motion based on the briefing). Accordingly, should the Court see fit to grant the request, the Motion will only become “ripe for decision” (Dkt. No. 187) after a hearing is conducted.

With respect to the completeness of the briefing on the Motion, Dr. Debrabandere is filing separately today a Motion for Leave to File a Surreply on the grounds that the SEC’s Reply (Dkt. No. 186) raises new legal theories. In particular, the Reply contends for the first time that certain out-of-court statements made by a third party are admissible because they fall within exceptions to the rule against hearsay. Consequently, Dr. Debrabandere respectfully submits that the briefing

on the Motion should not be deemed complete until the Court has ruled on his Motion for Leave to File a Surreply.

Respectfully submitted this 30th day of October 2020.

/s/ John A. Freedman

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CERTIFICATE OF SERVICE

I certify that, on October 30, 2020, I caused the foregoing document to be electronically filed with the Court using the ECF system, which will send notification of such filing to ECF-registered counsel.

/s/ John A. Freedman